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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 DONALD RAY MCCUNE,

9 *Petitioner,*

10 vs.

11
12 LEGRAND, et al.,

13 *Respondents.*
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3:14-cv-00600-RCJ-VPC

ORDER

15 Petitioner has filed a *pro se* petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254
16 (ECF #1). However, petitioner has failed to submit an application to proceed *in forma pauperis* or pay
17 the filing fee. Accordingly, this matter has not been properly commenced. 28 U.S.C. § 1915(a)(2) and
18 Local Rule LSR1-2.

19 Thus, the present action will be dismissed without prejudice to the filing of a new petition in a
20 new action with an application to proceed *in forma pauperis* on the proper form with both an inmate
21 account statement for the past six months and a properly executed financial certificate.

22 It does not appear from the papers presented that a dismissal without prejudice will materially
23 affect a later analysis of any timeliness issue with regard to a promptly filed new action. The court notes
24 that it is unclear whether petitioner has exhausted his federal claims in the state courts. A petitioner
25 must first fairly present and exhaust all federal constitutional claims raised on federal habeas review in
26 the state courts. Petitioner at all times remains responsible for properly exhausting his claims, for
27 calculating the running of the federal limitation period as applied to his case, and for properly
28 commencing a timely-filed federal habeas action.

